<u>REMARKS</u>

This Application has been carefully reviewed in light of the Office Action mailed August 10, 2005. Claims 1-26 were pending in the Application. In the Office Action, Claims 1-26 were rejected. Thus, Claims 1-26 remain pending in the Application. Applicants respectfully request reconsideration and favorable action in this case.

In the Office Action, the following actions were taken or matters were raised:

SECTION 101 REJECTIONS

Claims 1-26 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicants respectfully traverse this rejection.

Of the rejected claims, Claims 1, 10 and 19 are independent. In the Office Action, the Examiner appears to assert that because Claims 1, 10 and 19 do not explicitly recite the term "computer," they are non-statutory (Office Action, page 2). Applicants respectfully disagree. Claim 1, for example, recites "a target" and "a probe operable to execute in the target" (emphasis added). Applicants respectfully refer the Examiner to Applicants' specification which recites "[c]lient systems 16 serve as the target of the inquiry and may be computers, servers and other equipment" (page 3, lines 20-21) (emphasis added). Thus, Applicants respectfully submit that the subject matter of Claims 1, 10 and 19, especially when read in light of Applicants' specification, are directed toward statutory subject matter in full compliance with 35 U.S.C. § 101. Accordingly, Applicants respectfully submit that this rejection is improper and should be withdrawn.

SECTION 103 REJECTIONS

Claims 1-5, 10-14, 19-23, 25 and 26 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,499,340 issued to Barritz (hereinafter *"Barritz"*) in view of U.S. Patent No. 6,618,735 issued to Krishnaswami et al. (hereinafter *"Krishnaswami"*). Claims 6-9, 15-18 and 24 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Barritz* in view of Applied Cryptography, Second Edition by Bruce Schneier (hereinafter *"Schneier"*). Applicants respectfully traverse these rejections.

To establish a *prima facie* case of obviousness under 35 U.S.C. § 103, three basic criteria must be met: First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; second, there must be a reasonable expectation of success; and finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *In re Vaeck*, 947 F.2d 488, (Fed. Cir. 1991); M.P.E.P. § 2143.

Of the rejected claims, Claims 1, 10 and 19 are independent. Applicants respectfully submit that, at the very least, there is no motivation or suggestion to combine purported reference teachings as proposed by the Examiner. Claim 1, for example, recites "a target," "a probe operable to execute in the target and collect a predetermined set of data associated with the target" and "a monitor operable to receive the collected predetermined set of data to compare with expected data values to determine whether the target has been altered." The Examiner appears to admit that *Barritz* does not explicitly disclose comparing data with expected values to determine if the target has been altered (Office Action, page 3). However, the Examiner asserts that *Krishnaswami* purportedly teaches such comparison, and that it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the purported teachings of *Krishnaswami* with *Barritz* (Office Action, page 3). Applicants respectfully disagree.

Barritz is directed toward a method and apparatus for monitoring computer program usage (*Barritz*, abstract). For example, *Barritz* appears to disclose a software product to detect, monotor and report on software products installed on a computer system and their actual usage (*Barritz*, column 2, lines 57-60) (emphasis added). *Barritz* appears to disclose that the software product of *Barritz* "automatically determin[es] and record[s] each instance of actual usage of particular software products, as well as the identity of each user of those products" (*Barritz*, column 2, lines 62-65) (emphasis added). *Barritz* appears to disclose a surveying program to examine all the storage devices of a computer system to determine the program modules present (*Barritz*, column 4, lines 28-33). *Barritz* further appears to disclose

a monitoring program that records pertinent information in a recorded information log when certain events occur ("for each module used, the information recorded by the monitor consists of the module name, the library name from which it was loaded, the volume of the library, the product ID, the job name using the module . . . ." (*Barritz*, column 6, lines 32-53)). *Barritz* also appears to disclose a reporting program for reporting the events logged by the monitoring program ("sorts, correlates, consolidates, summarizes, formats and outputs reports" (*Barritz*, column 8, lines 11-17)). Thus, there appears to be no motivation or suggestion to combine the purported teaching of *Krishnaswami* with *Barritz* at least because the information desired by the *Barritz* system is actual usage of a program module of *Barritz* ("mak[ing] it possible to for a company to cancel maintenance or rental on unused or under-used products" (*Barritz*, column 2, lines 65-67)). Accordingly, while *Barritz* appears to be directed toward monitoring and reporting actual usage of a program module, Applicants' invention is instead directed toward determining whether a target computer system has been altered. Accordingly, there is no motivation or suggestion to modify the *Barritz* reference as suggested by the Examiner other than Applicants' disclosure, which is improper.

Independent Claim 10, recites "executing a probe in a target" and "collecting a predetermined set of data associated with the target for comparison with expected data values for the predetermined set of data to determine whether the target has been altered" (emphasis added), and independent Claim 19 recites "receiving from [a] probe a predetermined set of data associated with [a] target" and "comparing the received predetermined set of data with expected data values thereof to determine whether the target has been altered" (emphasis added). Accordingly, for at least the reasons discussed above, Applicants respectfully submit that independent Claims 10 and 19 are also patentable over the cited *Barritz* and *Krishnaswami* references.

Claims 2-9, 11-18 and 20-26 depend respectively from independent Claims 1, 10 and 19. For at least the reasons discussed above, independent Claims 1, 10 and 19 are in condition for allowance. Moreover, *Schneier* does not appear to remedy at least the deficiencies of the cited references discussed above. Therefore, Applicants respectfully request that the rejection of Claims 1-26 be withdrawn.

CONCLUSION

Applicants have made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for other reasons clearly apparent, Applicants respectfully request reconsideration and full allowance of all pending claims.

No fee is believed due with this Response. If, however, Applicants have overlooked the need for any fee due with this Response, the Commissioner is hereby authorized to charge any fees or credit any overpayment associated with this Response to Deposit Account No. 08-2025 of Hewlett-Packard Company.

Respectfully submitted,

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